

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT GENE REGA,)
)
Plaintiff,) Civil Action No. 08-156
)
v) Judge McVerry
) Magistrate Judge Bissoon
JEFFREY A. BEARD, *et al.*)
)
Defendants.)

MEMORANDUM ORDER

Robert Rega's Complaint filed pursuant to 42 U.S.C. § 1983 was received by the Clerk of Court on February 2, 2008, and was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules for Magistrates. The matter was later assigned to United States Magistrate Judge Cathy Bissoon.

The Magistrate Judge's Report, filed on March 2, 2010, recommended that the Motion to Dismiss filed by Defendant Lukas, Moore and Caramanna (Doc. 223) be granted with respect to claims against Defendants Caramanna and Lukas concerning the denial of Plaintiff's medication from December 21-29, 2007, without prejudice to Plaintiff's right to amend his Complaint, and that it be denied in all other respects. Plaintiff objected (Doc. 318) and he agrees with the Magistrate Judge's analysis. Plaintiff argues, however, that he has been denied discovery necessary to his ability to plead claims against Defendants Lukas and Caramanna. Plaintiff has also filed a Motion for Extension of Time to File an Amended Complaint as to Defendant Lukas and Caramanna (Doc. 317), and a Motion for Leave to File an Amended Complaint (Doc. 319) to which he has attached a proposed Amended Complaint containing new allegations against

Defendants Lukas and Caramanna. Plaintiff's objection that the Magistrate Judge has denied him the ability to amend his Complaint by failing to provide him additional discovery is meritless. The Magistrate Judge has, instead, specifically recommended that Plaintiff be given an opportunity to amend his Complaint, and Plaintiff has, in fact, filed a motion to this effect. Therefore, the Court will adopt the Magistrate Judge's recommendation, and will also permit the Amended Complaint to be filed.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following ORDER is entered:

AND NOW, this 23rd day of March, 2010,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants Lukas, Moore and Caramanna (Doc. 223) is GRANTED IN PART AND DENIED IN PART without prejudice to Plaintiff's right to amend his Complaint. The Report and Recommendation of Magistrate Judge Bissoon (Doc. 315) dated March 2, 2010, is adopted as the opinion of the court.

IT IS FURTHER ORDERED that Plaintiff's Motion for Motion for Extension of Time to File an Amended Complaint as to Defendant Lukas and Caramanna (Doc. 317), and a Motion for Leave to File an Amended Complaint (Doc. 319), are GRANTED. The Clerk is directed to file the Amended Complaint attached as an exhibit to Plaintiff's Motion (Doc. 319).

s/Terrence F. McVerry
U.S. District Court Judge

cc:
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